



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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FACT SHEET

NPDES Permit Number:	MDR 055500
MDE Permit Number:	13-IM-5500
Public Comment Period Expiration Date:	To be determined
Contact:	Raymond Bahr 410-537-3543

The Maryland Department of the Environment (MDE) proposes to reissue the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4s).

Introduction

MDE proposes to reissue the MS4 general discharge permit for small municipalities (permit #MDR 055500, 13-IM-5500). This permit will establish stormwater management programs to effectively control the discharge of storm drain system pollutants and improve water quality. This fact sheet provides basic information about the requirements in MDE's municipal stormwater general permit. Contact information and procedures for submitting comments can be found at the end of this fact sheet.

The draft general permit establishes conditions and prohibitions regarding the discharge of stormwater. It also relies on well-established State programs and an adaptive management approach to make continual improvements. Maryland has a long history of developing statewide programs to reduce stormwater pollution, which focus on protecting and restoring the water quality of Chesapeake Bay and its tributaries.

Examples include Maryland's Erosion and Sediment Control Law, passed in 1970 to control runoff from construction sites and the Stormwater Management Law, passed in 1982 that required appropriate best management practices (BMPs) in order to maintain after development, as nearly as possible, the pre-development runoff conditions. Over the years, both programs have undergone significant revisions and enhancements, including the Stormwater Management Act of 2007 (Act). In addition to other innovative provisions included in a 2000 revision to the State's stormwater program, the Act required environmental site design (ESD) to the maximum extent practicable (MEP) on all new development and redevelopment projects.



Permit Authority

According to 40 Code of Federal Regulations (CFR) §122.30, owners of small MS4s must obtain NPDES permit coverage. MDE's general stormwater permits are joint federal and State permits and subject to federal and State regulations. The Clean Water Act (CWA), federal regulations, and numerous guidelines and policies of the United States Environmental Protection Agency (EPA) provide the federal permit requirements. The Annotated Code of Maryland, Environment Article, Code of Maryland Regulations (COMAR), and policies and guidelines of MDE provide the State permitting requirements.

General Permit History

EPA's NPDES municipal stormwater program regulations were published in 1990. These regulations were implemented in two phases. In 1990, NPDES Phase I established requirements for stormwater discharges associated with 11 categories of industrial activity and for large and medium municipal separate storm sewer systems serving populations of 250,000 and 100,000 or greater, respectively. In Maryland, ten jurisdictions and the State Highway Administration (SHA) were required to apply for coverage under individual municipal NPDES stormwater permits. Smaller cities and towns, and State and federal agencies within these Phase I jurisdictions often had significant and interconnected storm drain systems but were not affected by the initial Phase I NPDES regulations.

In December 1999, EPA promulgated the NPDES Phase II requirements, expanding the stormwater permitting program to smaller localities as well as State and federal agencies located in urban areas. The Phase II program is described in CFR §122.3 and requires the implementation of six minimum control measures by all entities covered by a general permit. These six control measures are public education and outreach; public involvement and participation; illicit discharge detection and elimination; construction site runoff control; post-construction runoff control; and pollution prevention and good housekeeping.

The Phase II program allows operators of small MS4s flexibility in implementing the BMPs and measurable goals for each control measure most appropriate for their system. This flexibility is reflected in MDE's municipal stormwater general permit issued on April 14, 2003, which requires compliance with State law and regulations and CFR requirements while allowing permittees to determine how to implement the six minimum control measures. Successful implementation of the six minimum control measures and other permit conditions constitute compliance with the standard of reducing pollutants to the MEP, protecting water quality, and satisfying the requirements of the CWA.

This proposed permit action is to issue a "second-generation" NPDES stormwater general permit for small municipalities. The draft permit represents another step forward for Maryland's small MS4 communities. Due in part to Maryland's renewed efforts to restore Chesapeake Bay and comply with EPA approved total maximum daily loads (TMDLs) and Watershed Implementation Plans (WIPs), MDE has added significant restoration requirements to address impacts from urban development with little or no stormwater management.

Eligibility requirements for coverage under the 2003 general permit included jurisdictions with a population of at least 10,000 and a population density of 1,000 people per square mile and

municipalities with populations greater than or equal to 1,000 that are within a Phase I jurisdiction. Based on the eligibility criteria, MDE designated over 50 jurisdictions for coverage.

While the majority applied for coverage under the general permit, some chose to become co-permittees with their Phase I county. A few were not required to apply at the time for reasons such as operating a combined sewer system and others have since entered into agreements with their respective county for the completion of certain permit requirements. Eligibility requirements under the second-generation municipal permit remain the same. However, using the 2010 Census Data additional jurisdictions have been designated for coverage. [See Appendix A for designation criteria.](#)

General Permit Requirements

As noted in the General Permit History, EPA's Phase II stormwater requirements are based on the implementation of six minimum control measures. Below is a general description of how each control measure will be addressed by permit requirements. [There are different requirements imposed on new permittees versus renewal permittees. Generally, as discussed where a permittee is required to develop, implement, and maintain a program, new permittees have a specified time period during this permit term to develop these programs, whereas renewal permittees must update their existing programs.](#)

Public Education and Outreach

CFR §122.34(b)(1) requires permittees to [update or](#) develop, implement, and maintain a public education and outreach program to distribute educational materials to the community and employees to help reduce the discharge of pollutants caused by stormwater runoff. [At a minimum, the public education program shall](#) contain materials describing the impacts of stormwater discharges on receiving waters, why controlling these discharges is important, and what actions the public can take to reduce pollutants in stormwater runoff.

Public Involvement and Participation

CFR §122.34(b)(2) requires permittees to [update or](#) develop, implement, and maintain a public involvement and participation program. Permittees shall, [at a minimum,](#) comply with all State and federal public notice requirements in actions or decisions having to do with stormwater management. Permittees shall provide opportunities for the public to participate in the development, [implementation and review](#) of stormwater pollution control programs.

Illicit Discharge Detection and Elimination

CFR §122.34(b)(3) requires permittees to [update or](#) develop, implement, and maintain a program to identify and eliminate illicit storm drain system connections and non-stormwater discharges ~~to the MEP.~~ To satisfy this minimum control measure, permittees shall provide an updated map of the storm drain system and [identify](#) outfalls [and receiving waters,](#) develop [and implement](#) standard operating procedures for field screening and inspecting [a percentage of the](#) storm drain system outfalls [in accordance with the schedule identified in the permit,](#) identify the source of any illicit discharges, eliminate any illegal connection or illicit discharge to the storm drain system, [establish an ordinance](#) and enforce penalties where appropriate. The illicit discharge program shall also contain components to allow for reporting and addressing of illegal dumping and spills. Significant

discharges shall be reported to MDE for enforcement and/or permitting.

Construction Site Stormwater Runoff Control

CFR §122.34(b)(4) requires permittees to update or develop, implement, and maintain a construction site stormwater runoff control program. The Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland established a statewide erosion and sediment control program to control construction site runoff well before the EPA stormwater requirements. This statute, coupled with COMAR, specifies the requirements for any construction activity that disturbs five thousand (5,000) square feet or more of earth or involves 100 cubic yards or more of earth movement. Because Maryland's erosion and sediment control program regulates more earth disturbing activities than the NPDES stormwater program, MDE considers compliance with the State statute to be compliance with this minimum control measure and CFR. The permit does contain specific requirements in order to assist the permittee with understanding tasks to be completed to comply with applicable regulations.

Commented [OE1]: Include a more specific regulatory reference

Post Construction Stormwater Management

CFR §122.34(b)(5) requires permittees to update or develop, implement, and maintain a post construction stormwater management program. The Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland established a statewide stormwater management program. This statute, coupled with COMAR, requires all jurisdictions to have an approved qualifying local program to ensure that stormwater management for new development and redevelopment is addressed for any proposed project that disturbs five thousand (5,000) square feet or more of earth. Because Maryland's stormwater management program regulates new and redevelopment projects, MDE considers compliance with the State statute to be compliance with this minimum control measure and CFR. The permit does contain specific requirements in order to assist the permittee with understanding tasks to be completed to comply with applicable regulations.

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Pollution Prevention and Good Housekeeping

CFR §122.34(b)(6) requires permittees to update or develop, implement, and maintain pollution prevention and good housekeeping techniques and procedures to reduce pollutants from all municipal operations. Components of this minimum control measure include the development of policies and procedures to effectively reduce pollutant discharges to the storm drain system from activities located at municipal properties such as water and waste water treatment facilities, fleet yard operations, maintenance garages, parks and recreation sites, street and infrastructure maintenance, and grounds maintenance. In addition, the program shall include a mandatory annual training requirement for all municipal employees.

The 2014 General Permit for Stormwater Discharges Associated with Industrial Activities established a new Sector AD.a which provides coverage to Department of Public Works and Highway Maintenance facilities. As a result, municipal facilities may require additional NPDES permit coverage beyond this MS4 permit. All facility activities must be properly permitted under NPDES or any other appropriate State or federal water pollution control program.

Chesapeake Bay Restoration and Total Maximum Daily Loads

A Chesapeake Bay TMDL has been developed by the EPA for the six Bay States (Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia) and the District of Columbia. The

TMDL describes the level of effort that is necessary to meet water quality criteria and restore Chesapeake Bay. The TMDL is an aggregate of nonpoint sources or the load allocation (LA) and point sources or the waste load allocation (WLA), and a margin of safety. The State is required to issue NPDES permits to point source discharges that are consistent with the assumptions of any applicable TMDL.

Urban stormwater is defined in the CWA as a point source discharge and is subsequently part of the WLA. NPDES stormwater permits play a significant role in regulating pollutants from the urban sector and are an essential management component of Maryland's Chesapeake Bay WIP. Therefore, the State's NPDES general stormwater permits must be consistent with Maryland's WIP strategy and become part of the regulatory backbone for controlling urban pollutants toward meeting Chesapeake Bay and other local TMDLs.

In accordance with the EPA Memorandum "Establishing Total Maximum Daily Load (TMDL) Waste load Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs", November 12, 2010, MDE is establishing a twenty percent restoration requirement in this general permit as a surrogate for meeting Chesapeake Bay stormwater WLAs. The twenty percent restoration requirement is for urban impervious areas, which currently have little or no stormwater management. Specific understandings regarding the appropriate use of limits, targets, and surrogates include:

- EPA has noted the difficulty of establishing clear, effective, and enforceable NPDES permit limitations for sources covered by WLAs that are expressed as single categorical or aggregated wasteload allocations.
- When developing TMDLs for receiving waters where stormwater sources are the primary source of impairment, it may be suitable to establish a numeric target for a surrogate pollutant parameter, such as stormwater flow volume or impervious cover, that would be expected to provide attainment of water quality standards.

MDE is also establishing the twenty percent restoration requirement as a surrogate for meeting local stormwater WLAs. In the assurances of implementation analyses for each EPA approved TMDL, MDE has incorporated MS4 permit restoration requirements. Restoration efforts may include the use of ESD practices, structural stormwater BMPs, retrofitting, stream channel restoration, and other MDE approved alternative practices. The types of BMPs and their known efficiencies are then used to make projections of how and when stormwater WLAs can be met. In summary, the twenty percent general permit restoration requirement and resulting schedule of BMP implementation provides a reasonable assurance that the Chesapeake Bay and local TMDLs can be met.

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Sharing Responsibilities

Permittees may choose to partner or share responsibilities with other entities for meeting compliance with specific permit requirements. This could entail establishing partnerships with the surrounding County, municipality, or a government entity performing similar activities under the requirements of an NPDES MS4 permit. If responsibilities for permit compliance are shared, the relationship and specific duties of all participating entities need to be described and submitted to MDE. However, each permittee remains responsible for compliance with all conditions of its respective permit. Therefore, it is recommended that a legally binding contract, memorandum of understanding, or other similar

document be executed between permittees to avoid conflicts in meeting permit requirements.

Summary

Maryland's proposed small MS4 general permits represent another step forward in stormwater management, restoration, and water quality improvement. Due in part to Maryland's renewed efforts to restore Chesapeake Bay and comply with EPA approved TMDLs and WIPs, MDE has added significant restoration requirements for urban development that pre-existed the State's stormwater management programs. These restoration efforts build upon the existing six minimum control measures and existing programs that were required under the previous permit cycle. Together they ensure a comprehensive watershed management strategy for controlling stormwater, improving the health of local streams and rivers, and meeting water quality standards.

Public Review and Participation Opportunities

Upon advertisement, the tentative determination will be available on MDE's website at:

(<http://www.mde.state.md.us/programs/Water/StormwaterManagementProgram/SedimentandStormwaterHome/Pages/Programs/WaterPrograms/SedimentandStormwater/home/index.aspx>).

Copies of the draft permit may also be procured at a cost of \$0.36 per page. Written requests for copies should be directed to Mr. Raymond Bahr, Maryland Department of the Environment, Water Management Administration, Sediment, Stormwater, and Dam Safety Program, 1800 Washington Blvd., Ste. 440, Baltimore, Maryland 21230-1708. Additional information on stormwater management in Maryland can also be found on MDE's website or by calling Mr. Bahr at 410-537-3543 or 1-800-633-6101.

Once tentative determination is issued, the public will have 20 days to request a hearing and 30 days to provide written comments on the draft permit. If no hearing request is made nor comments received, the tentative determination will become final. If requested, a public hearing will be held within one month of notification. MDE will prepare a written response to comments and written testimony received at the hearing prior to issuing final determinations. Once final determination is issued, the public will have 15 days to request a judicial review of the permit.